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Last Updated: 10:46 am | Friday, February 3, 2006

## Reach for new tobacco dollars

### Editorials

Gov. Ernie Fletcher has been flogging Kentucky's share of the 1998 tobacco Master Settlement Agreement as a "bad deal," and now wants the state to opt out.

In place of the 46-state MSA that allots more than \$100 million a year in tobacco company payments to Kentucky, Fletcher proposes a flat fee of \$4 a carton on all cigarette sales in the state. His advisers tell him the new "assessment" would generate about \$250 million a year - a net \$150 million gain over the MSA.

Fletcher recommends splitting up the new revenue stream to benefit higher education, small business, state retirement funds, teacher salaries, agricultural development and capital projects.

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He is to be commended for prodding the General Assembly to seek new revenue sources. If Kentucky can capture a fairer share of tobacco taxes, it could serve both economic development and public health.

But Attorney General Greg Stumbo has warned if Kentucky breaches the Master Settlement Agreement, the tobacco companies may seek injunctive relief, and Kentucky could be denied tobacco payments of either sort while the issue is fought over in court. Kentucky programs that depend on MSA millions could be hard hit.

"We don't have another source of income, if both revenue streams dried up," Stumbo

said. The attorney general urged the governor and General Assembly to let him seek a declaratory judgment first, before risking tobacco industry lawsuits.

But Kentucky needs new revenue as soon as possible. Fletcher's chief of staff Stan Cave, a contract lawyer, argues Kentucky can keep the MSA payments flowing in 2006 by making the new assessment's effective date Jan. 1, 2007. If tobacco companies sue in 2006 and unexpectedly win, Kentucky could then simply continue the current MSA deal. But Fletcher officials are confident a tobacco industry challenge would not hold up in court. One trigger for switching to a simpler flat fee is recent projections that Kentucky's MSA revenue will decline by \$20 million a year the next few years.

Most agree Kentucky, a late-comer to the 1998 tobacco lawsuit, did settle for a bad deal. In Fletcher's State of the Commonwealth speech, he said Kentucky gets back less than 50 cents on each tobacco-sales dollar it contributes to the MSA, compared with New York's \$3.65 for each dollar it contributes. Tobacco executives have testified Kentucky cigarette sales account for 3 percent of all cigarettes sold in the U.S., yet the state gets only 1.76 percent of MSA payments.

The flat-fee plan would channel the extra \$150 million a year to worthy causes, including \$40 million extra to higher education to keep tuition affordable. But many state office-holders have taken anti-tax pledges and are acutely gun-shy of the T-word.

The proposed \$4-a-carton fee is expected to be passed along to consumers with a cost increase of 5 to 15 cents a pack. Last year Kentucky raised its cigarette tax from 3 to 30 cents a pack. Lawmakers this year should back Fletcher's switch to a simpler fee with big new revenues.

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